GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri P. Manmadha Rao S/o late Raju, Occ:Senior Assistant (Retd.) O/o Public Health Department (Engg.), Visakhapatnam, against the proceedings Rc No.3025/90/TW, dated 01.05.1997 of the District Collector, Visakhapatnam under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

TRIBAL WELFARE (CV.2) DEPARTMENT

G.O.MS.No. 7 Dated: 30-01-2018

Read the following:

1. Proceedings of the District Collector, Visakhapatnam, Rc.No.3025/90/TW, dated 01.05.1997.
2. Appeal Petition filed by Sri P. Manmadha Rao, before the then M(TW) on 11.12.2001.
3. Govt. Memo No.19696/CV.2/2001, dated 21.12.2001.
4. Govt. Memo No.19696/CV.2/2001, dated 05.03.2002.
5. Govt. Memo No.19696/CV.2/2001, dated 13.06.2002.
6. Govt. Memo No.19696/CV.2/2001, dated 12.09.2003.
7. From the District Collector, Visakhapatnam Lr.Rc.No.3825/90/C5, dated 26.07.2007.
8. Govt. Memo No.19696/CV.2/2001, dated 20.08.2007, 01.09.2007, 17.06.2008, 14.08.2008, 01.05.2012 & 17.01.2013.
9. Govt. Memo No.19696/CV.2/2001, dated 13.10.2014, 24.11.2014, 23.02.2015, 02.04.2015 & 07.12.2016.
10. Govt. Memo No.19696/CV.2/2001, dated 18.08.2017.
11. Letter received from Sri VVN Raju & V. Niharika, advocates, dt:30.10.2017.

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ORDER:

In the reference 1st read above, the District Collector, Visakhapatnam has issued orders canceling the ST –Konda Kapu Caste Certificate obtained from the then Tahsildar, Visakhapatnam on 1977 by Sri P. Manmadha Rao S/o late Raju.

2. In the reference 2nd read above, Sri P. Manmadha Rao S/o late Raju, has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, Vishakhapatnam. After examining the said Appeal Petition, Government have admitted the Appeal Petition and granted stay on the proceedings of the District Collector, Visakhapatnam for a period of (2) months from the date of issue of the order or disposal of the appeal petition, whichever is earlier and called for the parawise remarks and connected records from the District Collector, Visakhapatnam in the reference 3rd read above and stay orders were extended by the Government in the references 4th to 6th read above.

3. In the reference 7th read above, the District Collector, Visakhapatnam has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri P. Manmadha Rao S/o late Raju.

4. The said Appeal Petition has been posted for hearing on 31.08.2007, 17.09.2007, 30.06.2008, 23.08.2008, 11.05.2012, 21.01.2013, 25.10.2014, 13.12.2014, 28.02.2015, 18.04.2015, 2412.2016 and finally on 16.09.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 8th to 10th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on

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the material available with the Government. In the reference 11th read above, Sri V.V.N. Raju & V. Niharika Advocates to the appellant have filed vacalat on C.No.19696/CV.2/2001, about hearing of the case on 16.09.2017 and they have stated that his client was suffering from malaria fever and he is undergoing treatment during the period of hearing and he was unable to attend the above said hearing and requested to inform the future date of the hearing, but the said request was not considered by the Appellate Authority i.e. Hon'ble M(SWE&TWE), as the appellant is trying to prolong the issue by stating some and other reasons.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Visakhapatnam and proceedings of the District Collector, Visakhapatnam, dated 01.05.1997, the Appellate Authority has observed that:

I. The appellant in his grounds has stated that his fore fathers originally hailed from Tatipatri Panchayat Sivaru in Chinnakurmam Village which is a Girijanawada and his parents were illiterate persons and they belong to 'Konda Kapu' community which is Scheduled Tribe Community, about 30 or 40 years his father migrated to Visakhapatnam search his livelihood and seeking for a job and he has also stated that due to the illiteracy of the parents of the appellant, his caste was recorded in the School records as "PATNAIK" instead of 'KONDA KAPU'.

II. The District Level Scrutiny Committee has observed that the appellant has misrepresented the facts and obtained ST Konda Kapu Community certificate from the Tahsildar, Visakhapatnam and joined in service against the ST quota. After getting the enquiry report from the MRO, Madigula, it was referred for clarification that the surname "paturi" belongs to Konda Kapu Community or otherwise, to the Commissioner of Tribal Welfare, Hyderabad. After conducting discrete enquiry by the Commissioner of Tribal Welfare, Hyderabad on the caste status of the said appellant on the request of the Collector, Visakhapatnam, and also examined the documentary evidences i.e., Abstract of Admission register and withdrawal of Sri Rama Ele. School, Police lines Visakhapatnam and that of Mrs AVN C High School, Visakhapatnam, reported that he belongs to PATNAIK(OC)Community. After due enquiry, it revealed that the appellant does not belongs to any scheduled Tribe and requested the Collector, Visakhapatnam, vide his letter dt 21.12.1996 to cancel the false ST certificate produced by him launch a Criminal Prosecution against him. The SE, PH, Visakhapatnam was requested to initiate necessary disciplinary proceedings against the appellant. The Collector, Visakhapatnam has examined the matter and given notices to the Appellant to attend for the enquiry and also given ample opportunity to substantiate his claim, but he could not turn up to attend the enquiry. He has offered his written explanation to the show cause notice and it has been examined and found no proof is submitted by him to support of his claim. The Collector, Visakhapatnam has cancelled the false community certificate after examining the material available.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The appellate authority is observed that during the course of hearing of the case that the appellant not present and there is no representation of the appellant and proof of service of notice is filed indicating that

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the notice served on appellant by concern as such the date of hearing is aware by the appellant but he has not turned up and there is no representation on his behalf, on seeing the record the same is pending since several years as such no other go the same is ordered for orders on merits in the absence of the appellant. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the contention of the appellant that he has not given opportunity in the enquiry by the lower authority and the said ground is not tenable in the eye of law since as seen from the record several opportunities were given to the appellant to substantiate his contention. It is observed that as seen from the record that the matter pending since more than (16) years for hearing and several opportunities were given to the appellant to substantiate his contention and to produce evidence that he belongs to ST-Konda Kapu but he did not choose to produce any evidence and simply stating that he had not given opportunity to hear that itself shows that he has no evidence to show that he belongs to ST-Konda Kapu and as per the Act that the burden of proving that the appellant belongs to particular caste shall be on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case that the appellant except stating that he had not given opportunity at the time of hearing failed to produce any evidence to substantiate his contention. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity in the findings of the learned District Collector, Visakhapatnam. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference and also it is observed that in his entire study certificates his caste mentioned as 'Patnaik' and due to the illiteracy of the parents, , his caste was mentioned in the School records as "PATNAIK" instead of 'KONDA KAPU' is not reliable to consider.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri P. Manmadha Rao S/o late Raju, does not deserve any interference. Hence, Proceedings of the District Collector, Vishakapatnam issued vide Rc No. 3025/90/TW, dated 01.05.1997, is hereby upheld and the Appeal Petition filed by Sri P. Manmadha Rao S/o late Raju, is hereby dismissed and the Certificate issued by the then Tahsildar, Visakhapatnam deemed to be cancelled and the interim stay granted earlier stands vacated.

7. The District Collector, Visakhapatnam is directed to take necessary consequential action in the matter.

8. The records (containing Rc No. 3025/90/TW, dated 01.05.1997, pages: 1-460) received from the District Collector, Visakhapatnam through the reference 7th read above, are returned herewith in original to the District Collector, Visakhapatnam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANCHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Visakhapatnam.
(with original records) (BY RPAD)

[Contd..on P4]

Sri P.Manmadha Rao S/o Late Raju,
MIG-1-446,PM Pallem-2nd Bus Stop,
Visakhapatnam-41.(through Superintending Engineer(P.H), Visakhapatnam)

M/s B.Nateswara Rao, Advocate to the Appellant,
Plot No. 7 SBH Colony Asmangadh,
Malakpet Colony, Hyderabad - 500036.

The Superintending Engineer(P.H), Visakhapatnam.

Copy to:

The Director, TCR & TI, AP, Amaravathi.
The PS to Hon'ble Minister(SWE&TWE)
The P.S. to Principal Secretary(SW&TW)

// FORWARDED BY ORDER //

SECTION OFFICER